

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DOUGLAS O'CONNOR, et al.,

Plaintiffs,

v.

UBER TECHNOLOGIES, INC., et al.,

Defendants.

Case No. 13-cv-03826-EMC

Case No. 14-cv-5200-EMC

Case No. 15-cv-0262-EMC

IN RE UBER FCRA LITIGATION

**ORDER RE REVISED ARBITRATION
PROVISION AND CORRECTIVE
COVER LETTER**

HAKAN YUCESoy, et al.,

Plaintiffs,

v.

UBER TECHNOLOGIES, INC., et al.,

Defendants

On January 13, 2016, the parties submitted a “Joint Statement Regarding a Further Revised Arbitration Provision and Corrective Cover Letter.” *O’Connor*, Docket No. 462; *In re Uber FCRA Litigation*, Docket No. 154; *Yucesoy*, Docket No. 180 (Joint Statement). The Court has reviewed the revised arbitration provision and corrective cover letter, and resolves the issues raised by the parties as follows.

First, Plaintiffs propose characterizing the *O’Connor* action as a nationwide class action.

The Court has previously found that the California laws upon which the *O'Connor* Plaintiffs rely do not apply extra-territorially, and thus limited the case to drivers who worked in California. *See O'Connor*, Docket No. 136 at 16-21. The Court rejects Plaintiffs' proposal, as shown by the attached **Exhibit A**.

Second, Uber reiterates its view that it may enforce the new arbitration agreement against the *O'Connor* class as to certified claims. Joint Statement at 5 n.3. The Court again rejects this contention, which is inconsistent with Uber's prior position represented to the Court and the public. *See O'Connor*, Docket No. 408, Exh. C; Docket No. 410 at 4; Docket No. 428 at 38:24-39:7. The new arbitration agreement is unenforceable against the *O'Connor* class as to certified claims. *See O'Connor*, Docket No. 454 at 4 n.1.

Third, Uber requests reconsideration of the Court's finding that the corrective cover letter must be distributed to prospective drivers. Joint Statement at 9. The Court denies this request; as a practical matter, once an individual signs up as a driver, he or she becomes a putative class member, *i.e.*, in the nation-wide *In re Uber FCRA Litigation* case (as well as the other class actions that have been filed throughout the country).

Fourth, a redlined version of the corrective cover letter is attached as **Exhibit B**. With respect to the opt-out function, despite the Court expressing its concerns about the adequacy of Uber's prior suggestion, Uber again proposes to have a link to the arbitration agreement's opt-out provision. *See O'Connor*, Docket No. 454 at 6; Joint Statement at 7. The Court finds this proposal inadequate, and will require a pre-addressed e-mail accessible via hyperlink. The content of this e-mail (which the parties were also unable to agree on) will be: "My name is _____. I opt out of the Arbitration Provision in the driver-partner agreement."

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1 Finally, the Court finds that when sent to the drivers, the subject heading of the corrective
2 cover letter will be: "Notice re Updated Driver-Partner Agreement and Opt-Out from Arbitration
3 Agreement."

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5 **IT IS SO ORDERED.**

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7 Dated: January 19, 2016

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9 _____
10 EDWARD M. CHEN
11 United States District Judge
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